

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-3a	Time filed:	
Changed to Admin. Code Ref. (R no.):			

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Dan S. Jones	801-530-6720	801-530-6511	dansjones@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2.	Title of rule or section (catchline):			
	Architect Licensing Act Rule			
3.	Type of notice:			
	New ___; Amendment XX; Repeal ___; Repeal and Reenact ___			
4.	Purpose of the rule or reason for the change:			
	The Division and the Architects Licensing Board have reviewed the rule and determined some changes need to be made.			
5.	This change is a response to comments from the Administrative Rules Review Committee.			
	Yes ___; No XX			
6.	Summary of the rule change:			

	<p>Section 102-Definitions: Definition of "Divisions of the ARE" is an outdated definition of the architectural registration examination sections and is being deleted. The definition is no longer relevant to current applicants for licensure. Remaining paragraphs have been renumbered. Section 201-Advisory Peer Committee: changes are proposed in the makeup of the IDP (Individual Development Program) Committee. The Committee is responsible to coordinate the training requirements for applicants for licensure with the requirements of the National Council of Architectural Registration Boards (NCARB). In the past all of the committee membership positions have not been needed or filled. Section 301-Qualifications for Licensure/Architectural Program Criteria: Additions to paragraph (2)(c) sets forth what can be considered equivalent education for a former licensee who has allowed their license to lapse for more than two years. Without this proposed amendment, a former licensee would be required to obtain an architectural degree if they were originally licensed at a time when an architectural degree was not required, even if the former licensee has since original licensure had significant and successful licensed experience and expertise and may have much more knowledge about successful practice than a newly graduated applicant for licensure. This proposed amendments provides the Board and Division may consider the applicant's total knowledge based upon both formal education and licensed experience in this limited situation. Section 303-Examination Requirements: In paragraph (1) amendments are made to restate poorly worded paragraphs. Paragraph (2) is added to allow applicants to take the Architectural Registration Examination (ARE) examination at any time after they graduate with an architectural degree. NCARB recently made a change to model law and their procedures which allows a state to determine when an applicant may sit for the ARE examination. Prior to this change, applicants were required to complete both the education and the IDP experience program before being allowed to sit for the examination. The proposed change will allow applicants to sit for the exam before completion of the IDP program and therefore become licensed immediately after completion of the IDP program. Under the existing procedure, an applicant would be delayed a minimum of several months after completion of the IDP before they could take and pass the examination and then become licensed. Section 304-Continuing Professional Education for Architects: In paragraph (9), changed "these rules" to "this rule". Section 502-Unprofessional Conduct: Updated the NCARB "Rules of Conduct" to the July 2007 edition.</p>
7.	<p>Aggregate anticipated cost or savings to:</p> <p>A) State budget:</p> <p>The Division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.</p> <p>B) Local government:</p> <p>Proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed rule amendments only apply to licensed architects and applicants for licensure in that license classification.</p> <p>C) Small businesses (fewer than 50 employees) AND persons other than businesses:</p> <p>Proposed rule amendments only apply to licensed architects and applicants for licensure in that license classification. The proposed amendments in Subsections R156-3a-102(4), R156-3a-201(1), R156-3a-303(1) and R156-3a-502(4) will have no financial impact on any party other than a cost to the Division to republish the rule. The proposed amendment in Subsection R156-3a-301(2)(c) will save a very limited number of applicants the cost of returning to college and obtaining a degree if they have sufficient equivalent knowledge. The savings of costs to obtain that education for fees, books and time to complete the education could be substantial to affected applicants. The Division is unable to determine however how many applicants this proposed amendment would apply to as it would depend on if a licensee had allowed the license to expire and the license was not reinstated within a two year period. The proposed amendment in Subsection R156-3a-303(2) allowing applicants to take the ARE examination much sooner will not directly affect their cost of licensure. However, since these persons would potentially become licensed much sooner, they could potentially increase their personal income.</p>

8.	<p>Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency):</p> <p>Proposed rule amendments only apply to licensed architects and applicants for licensure in that license classification. The proposed amendments in Subsections R156-3a-102(4), R156-3a-201(1), R156-3a-303(1) and R156-3a-502(4) will have no financial impact on any party other than a cost to the Division to republish the rule. The proposed amendment in Subsection R156-3a-301(2)(c) will save a very limited number of applicants the cost of returning to college and obtaining a degree if they have sufficient equivalent knowledge. The savings of costs to obtain that education for fees, books and time to complete the education could be substantial to affected applicants. The proposed amendment in Subsection R156-3a-303(2) allowing applicants to take the ARE examination much sooner will not directly affect their cost of licensure. However, since these persons would potentially become licensed much sooner, they could potentially increase their personal income.</p>																				
9.	<p>Comments by the department head on the fiscal impact the rule may have on businesses:</p> <p>This proposed rule change contains various amendments regarding qualifications for licensure as well as some technical amendments. The substantive provisions will likely result in cost savings to applicants and to the architectural industry. No other fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director</p>																				
10.	<p>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</p> <p>Sections 58-3a-101 and 58-3a-303.5 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)</p>																				
11.	<p>This rule adds, updates, or otherwise changes the following titles of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank):</p> <p>Updates the NCARB "Rules of Conduct" from the August 2002 edition to the July 2007 edition.</p>																				
12.	<p>The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i>. See Section 63-46a-5 and Rule R15-1 for more information.)</p> <table border="1" data-bbox="250 1323 1437 1690"> <tr> <td colspan="2">A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</td> <td>12/17/2007</td> </tr> <tr> <td colspan="3">B) A public hearing (optional) will be held:</td> </tr> <tr> <td>on (mm/dd/yyyy):</td> <td>at (time):</td> <td>At (place):</td> </tr> <tr> <td>12/14/2007</td> <td>10:30 am</td> <td>160 East 300 South, Conference Room 402 (4th floor), Salt Lake City, Utah</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>			A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):		12/17/2007	B) A public hearing (optional) will be held:			on (mm/dd/yyyy):	at (time):	At (place):	12/14/2007	10:30 am	160 East 300 South, Conference Room 402 (4th floor), Salt Lake City, Utah						
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13.	<table border="1" data-bbox="250 1701 1437 1753"> <tr> <td>This rule change may become effective on (mm/dd/yyyy):</td> <td>12/24/2007</td> </tr> </table> <p>NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.</p>			This rule change may become effective on (mm/dd/yyyy):	12/24/2007																
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14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):		
	architects		licensing
15.	Attach an RTF document containing the text of this rule change (filename):		R156-3a.pro
<p>To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i>, and delaying the first possible effective date.</p>			
AGENCY AUTHORIZATION			
Agency head or designee, and title:		F. David Stanley, Director	Date (mm/dd/yyyy): 10/24/2007

ProposedRule.doc 9/26/2003

R156. Commerce, Occupational and Professional Licensing.

R156-3a. Architect Licensing Act Rule.

R156-3a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 3a, as used in Title 58, Chapters 1, 3a, and 22 or this rule:

(1) "ARE" means the NCARB Architectural Registration Examination.

(2) "Committee" means the IDP Committee created in Section R156-3a-201.

(3) "Complete and final" as used in Subsection 58-3a-603(1) means "complete construction plans" as defined in Subsection 58-3a-102(4).

(4) [~~"Divisions of the ARE" mean:~~

~~—(a) pre design (PD): satisfied by passing Division A between 1983 and 1996;~~

~~—(b) site planning (SP): satisfied by passing both Division B Written and Division B Graphic between 1988 and 1996; or by passing Division B between 1983 and 1987;~~

~~—(c) building planning (BP): satisfied by passing Division C between 1983 and 1996;~~

~~—(d) building technology (BT): satisfied by passing Division C between 1983 and 1996;~~

~~—(e) general structures (GS): satisfied by passing Division D/F between 1988 and 1996; or by passing both Division D and Division F between 1983 and 1987;~~

~~—(f) lateral forces (LF): satisfied by passing Division E between 1983 and 1996;~~

~~—(g) mechanical and electrical systems (ME): satisfied by passing Division G between 1983 and 1996;~~

~~—(h) materials and methods (MM): satisfied by passing Division H between 1983 and 1996; and~~

~~—(i) construction documents and services (CD): satisfied by passing Division I between 1983 and 1996.~~

~~—(5)—~~] "EESA" means the Education Evaluation Services for Architects.

(~~[6]~~5) "Employee, subordinate, associate, or drafter of an architect" as used in Subsections 58-3a-102(8), 58-3a-603(1)(b) and this rule means one or more individuals not licensed as an architect who are working for, with, or providing architectural services directly to the licensed architect under the supervision of the licensed architect.

(~~[7]~~6) "Incidental practice" means "architecture work as is incidental to the practice of engineering" as used in Subsection 58-22-102(9) and "engineering work as is incidental to the practice of architecture as used in Subsection 58-3a-102(6) which:

(a) can be safely and competently performed by the

licensee without jeopardizing the life, health, property and welfare of the public;

(b) is in an area where the licensee has demonstrated competence by adequate education, training and experience;

(c) arises from and is directly related to work performed in the licensed profession;

(d) is substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession; and

(e) is work in which the licensee is fully responsible for the incidental practice performed as provided in Subsection 58-3a-603(1) or Subsection 58-22-603(1).

(~~8~~7) "Intern Development Program" or "IDP" as used in Subsection R156-3a-302(2) means a NCARB approved training program.

(~~9~~8) "NAAB" means the National Architectural Accrediting Board.

(~~10~~9) "NCARB" means the National Council of Architectural Registration Boards.

(~~11~~10) "Program of diversified practical experience" as used in Subsection 58-3a-302(1)(e) means:

(a) current licensure in a recognized jurisdiction; or

(b) the training standards and requirements set forth in the Intern Development Program.

(~~12~~11) "Recognized jurisdiction" as used in Subsections 58-3a-302(2)(d)(i) and (iii), for licensure by endorsement, means any state, district, territory of the United States, or any foreign country who issues licenses for architects, and whose licensure requirements include:

(a) a bachelors or post graduate degree in architecture or equivalent education as set forth in Subsection R156-3a-301(2);

(b) a program of diversified practical experience as set forth in Subsection R156-3a-102(10), or an equivalent training program; and

(c) passing the ARE or passing a professional architecture examination that is equivalent to the ARE.

(~~13~~12) "Responsible charge" as used in Subsections 58-3a-102(7), 58-3a-302(2)(d)(iv) and 58-3a-304(6) means direct control and management by a principal over the practice of architecture by an organization.

(~~14~~13) "Under the direction of the architect" as used in Subsection 58-3a-102(8), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of an architect" means that the unlicensed employee, subordinate, associate, or drafter of the architect engages in the practice of architecture only on work initiated by the architect, and only under the administration, charge, control,

command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of the architect.

(~~[15]~~14) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 3a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-3a-502.

R156-3a-201. Advisory Peer Committee Created - Membership - Duties.

(1) There is created in accordance with Subsection 58-1-203(1)(f), the IDP Committee as an advisory peer committee to the Architect Licensing Board consisting of ~~[five]~~one or more members as follows:

- (a) ~~[one]~~a State IDP Coordinator;
- (b) ~~[one]~~an Education Coordinator; or
- (c) ~~[two]~~an Intern IDP Coordinator~~s; and~~
- ~~_____ (d) one member of the Utah Architects Licensing Board].~~

(2) The committee shall be appointed and serve in accordance with Section R156-1-205.

(3) The duties and responsibilities of the committee shall include assisting the board in its duties, functions, and responsibilities defined in Subsection 58-1-202(1)(e) as follows:

- (a) promote an awareness of IDP by holding meetings and seminars on IDP;
- (b) establish a network of sponsors and advisors for IDP interns;
- (c) encourage firms to support IDP;
- (d) act as a resource to respond to questions on IDP received from advisors, sponsors, and interns; and
- (e) report to the board as directed.

R156-3a-301. Qualifications for Licensure - Architecture Program Criteria.

In accordance with Subsection 58-3a-302(1)(d), the architecture program criteria are established as follows.

(1) The architecture program shall be accredited by either the National Architectural Accrediting Board (NAAB), or the Canadian Architectural Certification Board (CACB), or an architectural program equivalent to a NAAB accredited program.

(2) Equivalency shall be documented by submitting one of the following:

- (a) if educated in a foreign country, a comprehensive report prepared by EESA stating that the applicant has successfully completed an educational program that is equivalent to the NAAB accredited educational program; or
- (b) a current NCARB Council Record;
- _____ (c)(i) if an applicant was previously licensed and

practicing in Utah under a license that was granted under prior statute or rule but allowed the license to lapse for more than two years, the applicant may reinstate the license by demonstrating that their combined education, supervised experience and licensed practice demonstrate that the applicant's training is equivalent to an NAAB accredited educational program;

(ii) if the combined education and experience is not demonstrated to be equivalent, the Division, in collaboration with the Board, may:

(A) determine whether continuing education can bring the combined education and experience up to equivalency, and if so, specify the type of continuing education required; or

(B) determine that the applicant shall be required to obtain the actual degree under Subsection (1).

R156-3a-303. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsections 58-3a-302(1)(f) and 58-3a-302(2)(e), an applicant for licensure as an architect (whether by education and experience or by endorsement) shall [either] submit documentation establishing:

(a) a score of 100% on the open book take home Utah Law and Rule Examination; and

(b)(i) [of] a current NCARB Council Record; or

(ii) passing scores on all divisions of the ARE as established by the NCARB[pass the following examinations:]

~~— (a) as part of the application for licensure, pass all questions on the open book, take home Utah Law and Rule Examination; and~~

~~— (b) all divisions of the ARE as defined in Subsection R156-3a-102(4) with a passing score as established by NCARB.~~

~~— (2) In accordance with Subsection 58-3a-302(2)(e), an applicant for licensure by endorsement shall either submit documentation of a current NCARB Council Record or pass the following examinations:~~

~~— (a) as part of the application for licensure, pass all questions on the open book, take home Utah Law and Rule Examination; and~~

~~— (b) all divisions of the ARE as defined in Subsection R156-3a-102(4) with a passing score as established by NCARB].~~

(2) An applicant for licensure may apply directly to NCARB to sit for any part of the ARE examination anytime after having completed the education requirements specified in Section R156-3a-301.

R156-3a-304. Continuing Professional Education for Architects.

In accordance with Section 58-3a-303.5, the qualifying continuing professional education standards for architects are established as follows:

(1) During each two year period ending on December 31 of each odd numbered year, a licensed architect shall be required to complete not less than 16 hours of qualified professional education directly related to the licensee's professional practice.

(a) Transition requirement. During the two year period ending on December 31, 2007, an architect shall be required to complete five hours of qualifying continuing professional education.

(2) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(3) Qualified continuing professional education under this section shall:

(a) have an identifiable, clear statement of purpose and defined objective for the educational program directly related to the practice of an architect and directly related to topics involving the public health, safety, and welfare of architectural practice and the ethical standards of architectural practice;

(i) health, safety, welfare and ethical standards as used in this subsection are defined to include the following:

(A) The definition of "health" shall include, but not be limited to, aspects of architecture that have salutary effects among users of buildings or sites and that address environmental issues. Examples include all aspects of air quality, provisions of personal hygiene, and use of non-toxic materials and finishes.

(B) The definition of "safety" shall include, but not be limited to, aspects of architecture intended to limit or prevent accidental injury or death among users of buildings or construction sites. Examples include fire-rated egress enclosures, automatic sprinkler systems, stairs with correct rise-to-run proportions, and accommodations for users with disabilities.

(C) The definition of "welfare" shall include, but not be limited to, aspects of architecture that consist of values that may be spiritual, physical, aesthetic and monetary in nature. Examples include spaces that afford natural light or views of nature or whose proportions, color or materials engender positive emotional responses from its users.

(D) The definition of "ethical standards of architectural

practice" shall include, but not be limited to the NCARB rules of conduct specified in Subsection R156-3a-502(4).

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(4) Credit for qualified continuing professional education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;

(b) a maximum of eight hours per two year period may be recognized for teaching in a college or university or for teaching qualified continuing professional education courses in the field of architecture, provided it is the first time the material has been taught during the preceding 12 months;

(c) a maximum of three hours per two year period may be recognized for preparation of papers, articles, or books directly related to the practice of architecture and submitted for publication; and

(d) unlimited hours may be recognized for continuing professional education that is provided via the Internet or through home study courses provided the course verifies registration and participation in the course by means of a test which demonstrates that the participant has learned the material presented.

(5) A licensee shall be responsible for maintaining records of completed qualified continuing professional education for a period of four years after the two year period to which the records pertain. It is the responsibility of the licensee to maintain information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(6) If a licensee exceeds the 16 hours of qualified continuing professional education during the two year period, the licensee may carry forward a maximum of 8 hours of qualified continuing professional education into the next two year period.

(7) A licensee who is unable to complete the continuing professional education requirement for reasons such as a medical or related condition, humanitarian or ecclesiastical services,

or extended presence in a geographical area where continuing professional education is not available, may be excused from the requirement for a period of up to three years as provided in Section R156-1-308d.

(8) Any licensee who fails to timely complete the continuing professional education hours required by this rule shall be required to complete double the number of hours missed to be eligible for renewal or reinstatement of licensure.

(9) Any applicant for reinstatement shall be required to complete 16 hours of continuing professional education complying with th[ese]is rule[s] within two years prior to the date of application for reinstatement of licensure.

R156-3a-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) submitting an incomplete final plan, specification, report, or set of construction plans to:

(a) a client, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, report, or set of construction plans to be complete and final; or

(b) a building official for the purpose of obtaining a building permit;

(2) failing as a principal to exercise reasonable charge;

(3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or

(4) failing to conform to the generally accepted and recognized standards and ethics of the profession including those established in the [~~August-2002~~July 2007] edition of the NCARB "Rules of Conduct", which is hereby incorporated by reference.

KEY: architects, licensing

Date of Enactment or Last Substantive Amendment: [~~August 23, 2007~~2008]

Notice of Continuation: April 10, 2006

Authorizing, and Implemented or Interpreted Law: 58-3a-101; 58-1-106(1)(a); 58-1-202(1)(a), 58-3a-303.5